UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:23-cv-00183-RJC (3:06-cr-00364-RJC-1)

MARTINEZ ORLANDIS BLACK,)	
Petitioner,)	
vs.)	ORDER
UNITED STATES OF AMERICA,)	ORDER
Respondent.)	

THIS MATTER is before the Court on the Government's Motion to Hold 28 U.S.C. § 2255 Motion in Abeyance. [Doc. 3].

On March 24, 2023, Petitioner moved to vacate, correct, or set aside his sentence pursuant to 28 U.S.C. § 2255, arguing that he was improperly sentenced and that his sentence violates the Double Jeopardy Clause. [Doc. 1]. The Court ordered the Government to respond to Petitioner's motion. [Doc. 2]. On April 19, 2023, Petitioner filed a notice of appeal from his original, underlying September 4, 2007 criminal judgment. [Criminal Case No. 3:06-cr-00364-RJC-1 ("CR"), Doc. 42]. Although Petitioner previously, unsuccessfully sought post-conviction relief from his 2007 conviction, the Fourth Circuit ordered briefing and appointed counsel to represent Petitioner on his appeal. [See Appeal No. 23-4280]. The Government now moves the Court to stay these proceedings until the issuance of the mandate in Petitioner's appeal. [Doc. 3].

The Court will grant the Government's request to stay this matter pending the issuance of the mandate in Petitioner's appeal in Appeal No. 23-4280 and will allow the Government 30 days therefrom to file its response.

IT IS, THEREFORE, ORDERED that this matter is **STAYED** pending the issuance of the mandate in <u>United States v. Black</u>, No. 23-4280 (4th Cir. pending), and that the Government shall have thirty (30) days therefrom to file its response in this matter.

Signed: June 6, 2023

Robert J. Conrad, Jr.

United States District Judge